

under 38 U.S.C. 3103. These circumstances of discharge are:

(1) Discharge or dismissal by reason of the sentence of a general court-martial.

(2) Discharge as a conscientious objector who refused to perform military duty, to wear the uniform or otherwise to comply with lawful orders of competent military authority.

(3) Discharge as a deserter.

(4) Discharge on the basis, or as part of the basis, of an absence without authority from active duty for a continuous period of at least 180 days, if such discharge was under conditions other than honorable. Additionally, such absence is computed without regard to the applicant's normal or adjusted expiration of term of service.

(5) Discharge or dismissal of an officer based on acceptance of the officer's resignation for the good of the service.

(6) Discharge, on his/her own application, during a period of hostilities, as an alien.

(c) If it appears that the applicant was discharged under one or more of the circumstances outlined in § 724.504b, a written notification will be sent which informs the applicant that:

(1) An initial service record review reveals that the discharge may have been awarded under circumstances which make the applicant ineligible for receipt of VA benefits regardless of any action taken by the NDRB.

(2) Separate action by the Board for Correction of Naval Records (BCNR) and/or the VA, in case of 180 days consecutive UA disqualification, may confer eligibility for VA benefits. Instructions for making application to the BCNR and for contacting the VA are provided.

### Subpart F—Naval Discharge Review Board Mission and Functions

#### § 724.601 General.

The NDRB is a component of the Naval Council of Personnel Boards and has its offices located in the NCR. The NDRB conducts documentary reviews and personal appearance reviews in the NCR and, on a traveling basis, at selected sites within the 48 contiguous states. Regional site selection is predi-

cated on the number of pending applications accumulated from a given geographical area and the resources available to support distant personal appearance reviews. The NDRB does not maintain facilities other than at its NCR offices. The primary sites of NCR are: Chicago, IL; Dallas, TX; and San Francisco, CA.

#### § 724.602 Mission.

To decide, in accordance with standards of naval law and discipline and the standards for discharge review set forth in subpart I, whether a discharge or dismissal from the naval service is proper and equitable, or whether it should be changed.

#### § 724.603 Functions.

(a) Meet as frequently as necessary to provide expeditious review of naval discharges.

(b) Meet at locations within the 48 contiguous states as determined appropriate on the basis of the number of discharge review applications received from various geographical areas and of available resources and facilities.

(c) Review applications for review of discharges.

(d) In consonance with directives of higher authority and the policies set forth in this Manual, grant or deny change of discharges.

(e) Promulgate decisions in a timely manner.

(f) Maintain a system of records.

(g) Maintain liaison in discharge review matters with:

(1) General Counsel of the Navy.

(2) Commandant of the Marine Corps.

(3) Chief of Naval Operations.

(i) Commander, Naval Reserve Force.

(ii) Commander, Naval Medical Command.

(iii) Commander, Naval Military Personnel Command, under the Chief of Naval Personnel.

(4) Judge Advocate General of the Navy.

(5) Veterans' service organizations.

(6) Discharge review boards of the other services, using the Army Discharge Review Board as the focal point for service coordination.

(h) Protect the privacy of individuals whose records are reviewed.

## Department of the Navy, DoD

## § 724.802

(i) Maintain for public access a reading file and associated index of records of NDRB proceedings in all reviews undertaken subsequent to July 1, 1975.

### Subpart G—Organization of the Naval Discharge Review Board

#### § 724.701 Composition.

The NDRB acting in plenary review session shall be composed of five members. Normally the members shall be career military officers, assigned to the Naval Council of Personnel Boards or otherwise made available; inactive duty officers of the Navy and Marine Corps Reserve may serve as members when designated to do so by the President, NDRB.

(a) Presiding officers of the NDRB shall normally be Navy or Marine Corps officers in the grade of Captain/Colonel or above.

(b) The remaining NDRB membership shall normally be not less than the grade of Lieutenant Commander/Major with preference being given to senior grades.

(c) At least three of the five members of the NDRB shall belong to the service from which the applicant whose case is under review was discharged.

(d) Individual membership in the NDRB may vary within the limitations of the prescribed composition.

(e) Any member of a panel of the NDRB other than the presiding officer may act as recorder for cases assigned. The recorder will participate as a voting member of the panel.

#### § 724.702 Executive management.

The administrative affairs of the NDRB shall be managed by the Executive Secretary. This responsibility shall include schedules, records, correspondence and issuance of NDRB decisions.

#### § 724.703 Legal counsel.

Normally, the NDRB shall function without the immediate attendance of legal counsel. In the event that a legal advisory opinion is deemed appropriate by the NDRB, such opinion shall be obtained routinely by reference to the senior Judge Advocate assigned to the Office of the Director, Naval Council of Personnel Boards. In addition, the

NDRB may request advisory opinions from staff offices of the Department of the Navy, including, but not limited to the General Counsel and the Judge Advocate General.

### Subpart H—Procedures of Naval Discharge Review Board

#### § 724.801 Matters to be considered in discharge review.

In the process of its review of discharges, the NDRB shall examine available records and pertinent regulations of the Department of the Navy, together with such information as may be presented by the applicant and/or representative, which will normally include:

(a) The application for discharge review;

(b) Statements, affidavits or documentation, if any, accompanying the application or presented during hearings;

(c) Testimony, if any, presented during hearings;

(d) Service and health records;

(e) A brief of pertinent facts extracted from the service and health records, prepared by the NDRB recorder.

#### § 724.802 Applicant's responsibilities.

(a) *Request for change of discharge.* An applicant may request a change in the character of or reason for discharge (or both).

(1) *Character of discharge.* Block 7 of DD Form 293 provides an applicant an opportunity to request a specific change in character of discharge (for example, General Discharge to Honorable Discharge; Other than Honorable Discharge to General or Honorable Discharge). A person separated on or after 1 October 1982 while in an entry level status may request a change from Other Than Honorable Discharge to Entry Level Separation. A request for review from an applicant who does not have an Honorable Discharge will be treated as a request for a change to an Honorable Discharge unless the applicant requests a specific change to another character of discharge.

(2) *Reason for discharge.* Block 7 of DD Form 293 provides an applicant an opportunity to request a specific change